

108TH CONGRESS  
1ST SESSION

# S. 1709

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 2, 2003

Mr. CRAIG (for himself, Mr. DURBIN, Mr. CRAPO, Mr. FEINGOLD, Mr. SUNUNU, Mr. WYDEN, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Security and Freedom  
5 Ensured Act of 2003” or the “SAFE Act”.

1 **SEC. 2. LIMITATION ON ROVING WIRETAPS UNDER FOR-**  
2 **EIGN INTELLIGENCE SURVEILLANCE ACT OF**  
3 **1978.**

4 Section 105(c) of the Foreign Intelligence Surveil-  
5 lance Act of 1978 (50 U.S.C. 1805(c)) is amended—

6 (1) in paragraph (1), by striking subparagraphs  
7 (A) and (B) and inserting the following:

8 “(A)(i) the identity of the target of elec-  
9 tronic surveillance, if known; or

10 “(ii) if the identity of the target is not  
11 known, a description of the target and the na-  
12 ture and location of the facilities and places at  
13 which the electronic surveillance will be di-  
14 rected;

15 “(B)(i) the nature and location of each of  
16 the facilities or places at which the electronic  
17 surveillance will be directed, if known; and

18 “(ii) if any of the facilities or places are  
19 unknown, the identity of the target;”; and

20 (2) in paragraph (2)—

21 (A) by redesignating subparagraphs (B)  
22 through (D) as subparagraphs (C) through (E),  
23 respectively; and

24 (B) by inserting after subparagraph (A),  
25 the following:

“(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;”.

**SEC. 3. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.**

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “may have an adverse result (as defined in section 2705)” and inserting “will—

“(A) endanger the life or physical safety of an individual;

“(B) result in flight from prosecution; or

“(C) result in the destruction of, or tampering with, the evidence sought under the warrant”; and

(B) in paragraph (3), by striking “within a reasonable period” and all that follows and inserting “not later than 7 days after the execution of the warrant, which period may be ex-

1 tended by the court for an additional period of  
2 not more than 7 days each time the court finds  
3 reasonable cause to believe, pursuant to a re-  
4 quest by the Attorney General, the Deputy At-  
5 torney General, or an Associate Attorney Gen-  
6 eral, that notice of the execution of the warrant  
7 will—

8 “(A) endanger the life or physical safety of  
9 an individual;

10 “(B) result in flight from prosecution; or

11 “(C) result in the destruction of, or tam-  
12 pering with, the evidence sought under the war-  
13 rant.”; and

14 (2) by adding at the end the following:

15 “(c) REPORTS.—

16 “(1) IN GENERAL.—Every 6 months, the Attor-  
17 ney General shall submit a report to Congress sum-  
18 marizing, with respect to warrants under subsection  
19 (b), the requests made by the Department of Justice  
20 for delays of notice and extensions of delays of no-  
21 tice during the previous 6-month period.

22 “(2) CONTENTS.—Each report submitted under  
23 paragraph (1) shall include, for the preceding 6-  
24 month period—

1           “(A) the number of requests for delays of  
2           notice with respect to warrants under sub-  
3           section (b), categorized as granted, denied, or  
4           pending; and

5           “(B) for each request for delayed notice  
6           that was granted, the number of requests for  
7           extensions of the delay of notice, categorized as  
8           granted, denied, or pending.

9           “(3) PUBLIC AVAILABILITY.—The Attorney  
10          General shall make the report submitted under para-  
11          graph (1) available to the public.”.

12          (b) SUNSET PROVISION.—

13               (1) IN GENERAL.—Subsections (b) and (c) of  
14          section 3103a of title 18, United States Code, shall  
15          cease to have effect on December 31, 2005.

16               (2) EXCEPTION.—With respect to any par-  
17          ticular foreign intelligence investigation that began  
18          before the date on which the provisions referred to  
19          in paragraph (1) cease to have effect, or with re-  
20          spect to any particular offense or potential offense  
21          that began or occurred before the date on which the  
22          provisions referred to in paragraph (1) cease to have  
23          effect, such provisions shall continue in effect.

1 **SEC. 4. PRIVACY PROTECTIONS FOR LIBRARY, BOOK-**  
 2 **SELLER, AND OTHER PERSONAL RECORDS**  
 3 **UNDER FOREIGN INTELLIGENCE SURVEIL-**  
 4 **LANCE ACT OF 1978.**

5 (a) APPLICATIONS FOR ORDERS.—Section 501(b)(2)  
 6 of the Foreign Intelligence Surveillance Act of 1978 (50  
 7 U.S.C. 1861(b)(2)) is amended—

8 (1) by striking “shall specify that the records”  
 9 and inserting “shall specify that—

10 “(A) the records”; and

11 (2) by striking the period at the end and insert-  
 12 ing the following: “; and

13 “(B) there are specific and articulable  
 14 facts giving reason to believe that the person to  
 15 whom the records pertain is a foreign power or  
 16 an agent of a foreign power.”.

17 (b) ORDERS.—Section 501(c)(1) of the Foreign Intel-  
 18 ligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1))  
 19 is amended by striking “finds that” and all that follows  
 20 and inserting “finds that—

21 “(A) there are specific and articulable  
 22 facts giving reason to believe that the person to  
 23 whom the records pertain is a foreign power or  
 24 an agent of a foreign power; and

25 “(B) the application meets the other re-  
 26 quirements of this section.”.

1       (c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF  
 2 RECORDS.—Section 502(a) of the Foreign Intelligence  
 3 Surveillance Act of 1978 (50 U.S.C. 1862) is amended  
 4 to read as follows:

5       “(a) On a semiannual basis, the Attorney General  
 6 shall, with respect to all requests for the production of  
 7 tangible things under section 501, fully inform—

8               “(1) the Select Committee on Intelligence of the  
 9 Senate;

10              “(2) the Committee on the Judiciary of the  
 11 Senate;

12              “(3) the Permanent Select Committee on Intel-  
 13 ligence of the House of Representatives; and

14              “(4) the Committee on the Judiciary of the  
 15 House of Representatives.”.

16 **SEC. 5. PRIVACY PROTECTIONS FOR COMPUTER USERS AT**  
 17 **LIBRARIES UNDER NATIONAL SECURITY AU-**  
 18 **THORITY.**

19       Section 2709 of title 18, United States Code, is  
 20 amended—

21              (1) in subsection (a)—

22                      (A) by striking “A wire” and inserting the  
 23 following:

24                      “(1) IN GENERAL.—A wire”; and

25                      (B) by adding at the end the following:

1           “(2) EXCEPTION.—A library shall not be treat-  
 2           ed as a wire or electronic communication service pro-  
 3           vider for purposes of this section.”; and

4           (2) by adding at the end the following:

5           “(f) DEFINED TERM.—In this section, the term ‘li-  
 6           brary’ means a library (as that term is defined in section  
 7           213(2) of the Library Services and Technology Act (20  
 8           U.S.C. 9122(2)) whose services include access to the  
 9           Internet, books, journals, magazines, newspapers, or other  
 10          similar forms of communication in print or digitally to pa-  
 11          trons for their use, review, examination, or circulation.”.

12   **SEC. 6. EXTENSION OF PATRIOT SUNSET PROVISION.**

13          Section 224(a) of the USA PATRIOT ACT (18  
 14          U.S.C. 2510 note) is amended—

15               (1) by striking “213, 216, 219,”; and

16               (2) by inserting “and section 505” after “by  
 17          those sections)”.

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